

## SEMINOLE COUNTY GOVERNMENT AGENDA MEMORANDUM

**SUBJECT:** Adoption of a Resolution and Authorization to Enter into a Locally Funded Agreement Supplemental Amendment Number 1 for the State Road 436/Red Bug Lake Road Interchange Project From Lake Howell Road to Wilshire Boulevard (Financial Management Number 419369-1-{4B, 41, 43 & 45}-01)

**DEPARTMENT:** Public Works

**DIVISION:** Engineering

**AUTHORIZED BY:** Gary Johnson

**CONTACT:** Brett Blackadar

**EXT:** 5707

**MOTION/RECOMMENDATION:**

1. Adopt Resolution and authorize the Chairman to execute a Locally Funded Agreement Supplemental Amendment Number 1 with the Florida Department of Transportation (FDOT) for the acquisition of right-of-way for the State Road 436/Red Bug Lake Road Interchange Project from Lake Howell Road to Wilshire Boulevard.
2. Authorize issuance of a wire transfer in the amount of \$5,284,629 from funds in the County's 2007/2008 Fiscal Year Budget to be paid to the Florida Department of Transportation immediately upon execution of this agreement.

District 1 Bob Dallari  
District 2 Michael McLean  
District 4 Carlton D. Henley

Jerry McCollum

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**BACKGROUND:**

Under the 2<sup>nd</sup> Generation Sales Tax Program, the County administers and funds certain State Road projects from design through construction, with the provision that the Florida Department of Transportation (FDOT) is the acquiring agent during the right-of-way phase. As part of the 2<sup>nd</sup> Generation Sales Tax Program, the intersection of State Road 436 and Red Bug Lake Road was identified for a major transportation improvement. Design of this project is currently being finalized and the Right-of-Way Acquisition Phase of this project is being initiated by FDOT (Capital Improvement Project # 00226301).

At the September 25, 2007, Board meeting, a Locally Funded Agreement (LFA) for this project was executed to provide FDOT with an amount not to exceed \$7,000,000 from the County's 2007/2008 Fiscal Year Budget and \$16,435,000 from funds in the County's 2008/2009 Fiscal Year Budget. Under this agreement, FDOT will be responsible for acquiring the necessary right-of-way to construct this project using the funds transferred to them through this agreement. The County will be responsible for funding any acquisition costs over the total right-of-way estimates contained in this agreement.

At the time the LFA was executed, the County was using funds from \$7.5 Million budgeted in FY 2006/2007 for advance acquisition of property on this project. Since the advance acquisitions were not finalized, the exact amount of remaining FY 2006/2007 funds was not determined. Therefore, transfer of the FY 2006/2007 funds was not included in the original

LFA. The purpose of the attached Locally Funded Agreement Supplemental Amendment Number 1 is to transfer the additional right-of-way funds needed for this project.

Currently \$6,463,065 remains available in the Land account of the project budget in the FY 2007/2008 budget which has not been transferred to FDOT. FDOT recently updated and reduced the right-of-way estimate for this project from \$31,501,000 to a total of \$28,792,000. Due to the lower estimate, FDOT will require a total of \$5,284,629 transferred from the County through this amendment to meet the total anticipated right-of-way funds necessary for this project. In accordance with the Budget Policy of Seminole County, the available funds in the Land account can be transferred to FDOT to further this project.

**STAFF RECOMMENDATION:**

Staff recommends the Board:

1. Adopt the Resolution and authorize the Chairman to execute a Locally Funded Agreement Supplemental Amendment Number 1 with the Florida Department of Transportation (FDOT) for the acquisition of right-of-way for the State Road 436/Red Bug Lake Road Interchange Project from Lake Howell Road to Wilshire Boulevard.
2. Authorize issuance of a wire transfer in the amount of \$5,284,629 from funds in the County's 2007/2008 Fiscal Year Budget to be paid to the Florida Department of Transportation immediately upon execution of this agreement.

**ATTACHMENTS:**

1. Location Map-SR 436-RBLR Interchange
2. Resolution
3. LFA-Supplemental Amendment 1-SR 436/Red Bug Lake Road Intersection
4. Locally Funded Agmt. SR-436-Red Bug Lk Rd Intersection

**Additionally Reviewed By:**

- |   |
|---|
| <input checked="" type="checkbox"/> Budget Review ( Fredrik Coulter, Lisa Spriggs ) |
| <input checked="" type="checkbox"/> County Attorney Review ( Matthew Minter )       |

**SR 436 @ RED BUG LAKE ROAD INTERCHANGE**

**CIP # 00226301**

S WINTER PARK DR

WILSHIRE DR

SR 436

EAGLE CIRCLE

RED BUG LAKE ROAD

LAKE RD  
HOWELL RD

N

1 inch equals 1,000 ft

**RESOLUTION**

**THE FOLLOWING RESOLUTION WAS ADOPTED AT THE  
REGULAR MEETING OF THE BOARD OF COUNTY  
COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA, ON  
THE 22nd DAY OF APRIL, 2008.**

**WHEREAS**, the State of Florida Department of Transportation and Seminole County desire to facilitate the acquisition of right-of-way for the State Road 436/Red Bug Lake Road Interchange Project from Lake Howell Branch Road to Wilshire Boulevard; and

**WHEREAS**, The State of Florida Department of Transportation has requested Seminole County to execute and deliver to the State of Florida Department of Transportation a Locally Funded Agreement Supplemental Amendment Number 1 for the aforementioned project, (FDOT Financial Management Number 419369-1-{4B, 41, 43 & 45}-01).

**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Seminole County, Florida, that the Chairman is hereby authorized to make, execute and deliver to the State of Florida Department of Transportation the Locally Funded Agreement Supplemental Amendment Number 1 for the aforementioned project, (FDOT Financial Management Number 419369-1-{4B, 41, 43 & 45}-01).

**ADOPTED THIS 22nd DAY OF APRIL, 2008.**

**ATTEST:**

**BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY**

\_\_\_\_\_  
**MARYANNE MORSE, Clerk to the  
Board of County Commissioners in  
and for Seminole County, Florida.**

\_\_\_\_\_  
**Brenda Carey, Chairman**

STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION

**LOCALLY FUNDED AGREEMENT**  
**SUPPLEMENTAL AMENDMENT NUMBER 1**  
**EXECUTION DATE: \_\_\_\_\_**

<b>Financial Project No:</b> 419369-1-(4B, 41, 43 & 45)-01 <b>County CIP No.: 2263-01</b> SR 436/Red Bug Lake Road Project	<b>Fund: L F P</b>	<b>Agency: Seminole County</b> <b>Vendor No.: F596000856-065</b>
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The terms of the original Locally Funded Agreement, executed on **October 4, 2007**, are hereby amended as follows:

The Local Fund Payment Schedule for this project as stated in Exhibit "B" of the original agreement is amended as indicated on the attached Revised Local Fund Payment Schedule, Exhibit "B". The COUNTY agrees to provide the DEPARTMENT an additional advance deposit in the amount of \$5,284,629 with the execution of this document. This executed Supplemental Amendment will serve as notice that the total amount of Local Funding from the COUNTY for this agreement is now \$28,792,000.00.

Except as hereby modified, amended or changed, all of the terms and conditions of said original Agreement thereto will remain in full force and effect.

The following attachment is hereby incorporated into this Amendment:

Revised Local Fund Payment Schedule, Exhibit "B"

**IN WITNESS WHEREOF**, the parties hereto have caused these presents be executed, the day and year first above written.

**BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY, FLORIDA**

**STATE OF FLORIDA  
DEPARTMENT OF TRANSPORTATION**

By: \_\_\_\_\_

Name: Brenda Carey

Title: Chairman

By: \_\_\_\_\_

Name: George S. Lovett

Title: Director of Transportation Development

Date: \_\_\_\_\_

As authorized for execution by the Board of  
County Commissioners at their \_\_\_\_\_,  
2008 regular meeting.

Attest:

Attest:

\_\_\_\_\_  
MARYANNE MORSE, Clerk to the Board of  
County Commissioners of Seminole County,  
Florida.

\_\_\_\_\_  
Executive Secretary (Seal)

For use and reliance of Seminole County only.  
Approved as to form and legal sufficiency.

Legal Review

Legal Review:

\_\_\_\_\_  
County Attorney

**Exhibit "B"**  
**Revised Local Fund Payment Schedule**  
**Supplemental Amendment #1**

Total Local Funds Due from Seminole County	\$28,792,000
Total Funds Received to Date from Seminole County	\$7,000,000
Less Interest Earned as of March 20, 2008	(\$72,371.00)
<b>Total Funds Due with the Execution of this Document</b>	<b>\$5,284,629</b>
Total Funds Due by November 1, 2008	\$16,435,000

**The funds may be used on any phase of the PROJECT as stated in the original agreement**



Financial Project No: 419369-1-(4B, 41, 43 & 45)-01 County CIP No.: 2263-01 SR 436/Red Bug Lake Road Project	Fund: LF	Agency: Seminole County Vendor No.: F596000856-065
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**LOCALLY FUNDED AGREEMENT  
BETWEEN  
THE STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION  
AND  
SEMINOLE COUNTY**

This **AGREEMENT**, made and entered into this 4 day of October, 2007, by and between the STATE OF FLORIDA DEPARTMENT OF TRANSPORTATION (hereinafter referred to as the DEPARTMENT) and SEMINOLE COUNTY, a Charter County and a political subdivision of the State of Florida (hereinafter referred to as the COUNTY),

**WITNESSETH:**

WHEREAS, the Parties have been granted specific legislative authority to enter into this Agreement pursuant to Section 339.12, Florida Statutes; and

WHEREAS, the COUNTY, by Resolution, a copy attached hereto as Exhibit "C," has accepted said grant and authorized its officers to execute this Agreement on its behalf.

WHEREAS, the Project is not revenue producing and is contained in the Adopted Five Year Work Program; and

WHEREAS, the DEPARTMENT is prepared, in accordance with its Adopted Five Year Work Program, to undertake the Project described as, Acquisition of Right of Way for SR 436/Red Bug Lake Road from Lake Howell Road to Wilshire Boulevard in Seminole County, beginning in Fiscal Year 2007/2008, said Project being known as Financial Management Number 419369-1-(4B, 41, 43 & 45)-01, hereinafter referred to as the "Project"; and

WHEREAS, the implementation of the Project is in the interests of both the DEPARTMENT and the COUNTY and it would be most practical, expeditious, and economical for the COUNTY to provide the funds for the acquisition phases of the Project;

NOW, THEREFORE, in consideration of the mutual benefits to be derived from the joint participation of this Agreement, the parties agree as follows:

1. The term of this Agreement shall begin upon the date of signature of the last party to sign and shall remain in full force and effect through completion of all services required of the



COUNTY. The DEPARTMENT may, at any time and at any stage, amend or terminate the Project in whole or in part if the DEPARTMENT determines that such action is in the best interests of the public.

2. The DEPARTMENT shall be responsible to acquire, clear and certify the Right-of-Way necessary to construct the Project for the SR 436/Red Bug Lake Road Project from Lake Howell Road to Wilshire Boulevard. The Department shall acquire title to all real property necessary for the Project in the name of the State of Florida Department of Transportation. The necessary Right-of-Way shall be defined by the Design Plans and Right-of-Way Maps.

3. Nothing herein shall be construed as requiring the DEPARTMENT to perform any activity which is outside the scope of the Project as previously defined. Except as specifically stated otherwise in this Agreement, all such activities shall be performed by such entities, at such times, in such manner, under such conditions, and pursuant to such standards as the DEPARTMENT, in its sole discretion, deems appropriate. The COUNTY shall not have any jurisdiction or control over the DEPARTMENT's activities, except as specifically stated in this Agreement. The COUNTY shall be entitled to be advised of the progress of the Project at reasonable intervals upon request. After construction is complete the DEPARTMENT shall convey, in Fee Simple, the parcels acquired off of the State Highway System for the Red Bug Lake Road Improvements herein to the COUNTY reserving unto the DEPARTMENT any necessary drainage easements within these parcels.

4. Participation by the COUNTY and the DEPARTMENT of the funds for the acquisition phases of the Project shall be made as follows:

(A) The current estimated cost for fiscal years 2007/2008 and 2008/2009 for the acquisition of the Project is \$23,435,000.00 (Twenty Three Million Four Hundred Thirty Five Thousand Dollars and No/100). The COUNTY agrees to bear all expenses of the total cost of the Project.

(B) The COUNTY agrees to provide the DEPARTMENT an advance deposit, in the amount of **\$23,435,000.00 (Twenty Three Million Four Hundred Thirty Five Thousand Dollars and No/100)**. The COUNTY agrees to provide the funding according to the following schedule: **\$7,000,000.00 (Seven Million Dollars and No/100)** will be due and payable by November 1, 2007 and **\$16,435,000.00 (Sixteen Million Four Hundred Thirty Five Dollars and No/100)** will be due and payable no later than November 1, 2008. The advance deposit may be used on any phase of the Project.

(D) Both parties further agree that in the event the right of way is not acquired, or the Agreement is terminated prior to commencement of acquisition of the Project, the funds provided by the COUNTY for the Project will be returned to the COUNTY.

(E) If the actual acquisition costs are in excess of the advance deposit, the COUNTY will provide an additional deposit within fourteen (14) calendar days of notification from the DEPARTMENT so that the total deposit is adequate to ensure that cash on deposit with the DEPARTMENT is sufficient to fully fund the Project. The DEPARTMENT will notify the COUNTY as soon as it becomes apparent the actual acquisition costs are in excess of the advance deposit amount; however, failure of the DEPARTMENT to so notify the COUNTY shall not relieve the COUNTY from its obligation to pay for its full participation on final accounting as provided herein below. If the COUNTY cannot provide the additional deposit within fourteen (14) days, a letter must be submitted to the DEPARTMENT'S Project Manager indicating when the deposit will be made. The COUNTY understands the request and approval of the additional time could delay the Project, and additional costs may be incurred due to delay of the Project.

(F) Should Project modifications or changes occur that increase the total Project costs, the COUNTY will be notified by the DEPARTMENT accordingly. The COUNTY agrees to provide, without delay, in advance of the additional work being performed, adequate funds to ensure that cash on deposit with the DEPARTMENT is sufficient to fully fund the Project. The DEPARTMENT shall notify the COUNTY as soon as it becomes apparent the actual costs will overrun the estimated amount; however, failure of the DEPARTMENT to so notify the COUNTY shall not relieve the COUNTY from its obligation to pay for its full participation during the Project and on final accounting as provided herein below.

(G) The DEPARTMENT intends to have its final and complete accounting of all costs incurred in connection with the work performed hereunder within three hundred sixty days (360) of final payment for land acquisition. The DEPARTMENT considers the Project complete when the final payment has been made. All Project cost records and accounts shall be subject to audit by a representative of the COUNTY for a period of three (3) years after final close out of the Project. The COUNTY will be notified of the final cost. Both parties agree that in the event the final accounting of total Project costs pursuant to the terms of this Agreement is less than the total deposits to date, a refund of the excess deposit will be made

by the DEPARTMENT to the COUNTY. If the final accounting is not performed within three hundred and sixty (360) days, the COUNTY is not relieved from its obligation to pay.

(H) In the event the final accounting of total Project costs is greater than the total deposits, the COUNTY will pay the additional amount within forty (40) calendar days from the date of the invoice from the DEPARTMENT. The COUNTY agrees to pay interest at a rate as established pursuant to Section 55.03, Florida Statutes, on any invoice not paid within forty (40) calendar days until the invoice is paid.

(I) The payment of funds under this Locally Funded Agreement will be made directly to the DEPARTMENT for deposit and as provided in the attached MOA between the COUNTY, the Department and the State of Florida, Department of Financial Services, Division of Treasury. All interest earned will remain in the account for purposes of the Project.

(J) The DEPARTMENT and the COUNTY agree that the payment shall be an asset of the DEPARTMENT for the cost of the work.

(K) Contact Persons:

**Florida Department of Transportation**

Shirley Matthews	Todd Long
JPA Coordinator/MS 4-522	Project Manager/MS 542
719 South Woodland Boulevard	719 South Woodland Boulevard
DeLand, Florida 32720-6834	DeLand, Florida 32720-6834
PH: (386) 943-5452	PH: (386) 943-5492
<a href="mailto:shirley.matthews@dot.state.fl.us">shirley.matthews@dot.state.fl.us</a>	<a href="mailto:todd.long@dot.state.fl.us">todd.long@dot.state.fl.us</a>

**Seminole County**

Brett Blackadar, P.E.  
Seminole County  
520 West Lake Mary Boulevard  
Suite 200  
Sanford, Florida 32773  
(407) 665-5702  
[BBlackadar@seminolecountyfl.gov](mailto:BBlackadar@seminolecountyfl.gov)

5. All tracings, plans, specifications, maps, models, reports, or other work product prepared or obtained under this Agreement shall be considered works made for hire for the DEPARTMENT and shall at all times be and remain the property of the DEPARTMENT without restriction or limitation on their use. The COUNTY may, however, inspect those materials upon providing reasonable advance notice to the DEPARTMENT.



6. After written notice and a reasonable opportunity to cure, either party may unilaterally cancel this Agreement for refusal by the other party to allow public access to all documents, papers, letters, or other material subject to the provisions of Chapter 119, Florida Statutes and made or received by such party in conjunction with this Agreement.

7. This Agreement constitutes the complete and final expression of the parties with respect to the subject matter hereof, and incorporates and includes all proper negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein. The parties agree that there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not contained in this document. Accordingly, it is agreed that no deviation from the terms hereof shall be predicated upon any prior representation or agreements whether oral or written.

8. This Agreement shall be governed by the interpreted in accordance with the laws of the State of Florida. Any provision herein determined by a court of competent jurisdiction, or any other legally constituted body have jurisdiction, to be invalid or unenforceable shall be severable and the remainder of this Agreement shall remain in full force and effect, provided that the invalidated or unenforceable provision is not material to the intended operation of this Agreement.

IN WITNESS WHEREOF, the COUNTY has executed this Agreement this 25 day  
of September, 2007, and the DEPARTMENT has executed this Agreement  
this 4th day of October, 2007.

**SEMINOLE COUNTY, FLORIDA**  
**By: BOARD OF COUNTY COMMISSIONERS**

By: Carlton Henley  
Name: Carlton Henley  
Title: Chairman - BOCC  
Date: 9-25-07

Attest:

Maryanne Morse  
Maryanne Morse  
Clerk to the Board of County Commissioners  
of Seminole County Florida

**STATE OF FLORIDA**  
**DEPARTMENT OF TRANSPORTATION**

By: George S. Lovett  
Name: George S. Lovett  
Title: Director of Transportation Development  
Date: 10/4/07

Attest:

Rebecca Lopez  
Executive Secretary

For use and reliance of Seminole  
County only. Approved as to form  
and legal sufficiency.

Legal Review:

Matthew A. Winter  
Seminole County Attorney

Legal Review:

[Signature]

Financial Provision Approval by  
Department of Comptroller on:

8-21-07

## **Exhibit "A"**

### **SCOPE OF SERVICES**

#### **Right of Way Acquisition**

Financial Management Number: 419369-1-(41, 4B, 43 & 45)-01

Seminole County is funding the design, right of way acquisition, and construction phases of the SR 436/Red Bug Lake Road Project from Lake Howell Road to Wilshire Boulevard. Seminole County is currently administering the design phase of the project, including the preparation of the Right of Way Control Maps and Right of Way Maps, and the County will be administering the construction phase of the project, potentially beginning in Fiscal Year 2011. In order for the County to meet all federal requirements and be eligible for obtaining federal funds if they become available, the right of way acquisition phase must be performed in accordance with federal requirements. Since the County does not have the resources to perform this phase of the project, the Department has committed to performing the right of way acquisition phase for Seminole County using County funds.

This LFA is for the transfer of local funds from Seminole County in the Department's fiscal years 2007/2008 and 2008/2009 which is programmed in the Department's Work Program, so that the Department's Right of Way staff can perform the right of way acquisition phase for the County. The specific parcel numbers and acquisition areas will be defined as the Right of Way Mapping phase is completed over the next year.

## **Exhibit "B"**

### **Local Fund Payment Schedule**

**Funds Due from the County by November 1, 2007 .....\$ 7,000,000**

**Funds Due from the County by November 1, 2008 .....\$16,435,000**

**TOTAL                      \$23,435,000**



## **Exhibit "C"**

### **RESOLUTION/MINUTES**

**Financial Management Number: 419369-1-(4B, 41, 43, 45)-01**

R5509019  
BOCC0001

COUNTY COMMISSION - SEMINOLE  
BOCC Project Expenditure Status Report  
BOCC Project Expenditure Status Report  
For the Five Periods Ending February 29, 2008

02/05/08 14:39:57  
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Department: 07 PUBLIC WORKS  
Division: 0775 ENGINEERING

Project	Business Unit	Object	Subsidiary	Description	Adopted Budget	Current Budget	Period Expenditures	Outstanding Encumbrances	YTD Expenses	Available Balance
00220901	077600	.560642.		Equipment >\$4999						
Project: 00221001 STWTR F250 CREWCAB 4 DOOR 4X4										
00221001	077600	.560642.		Equipment >\$4999						
Project: 00221101 STWTR INTERNATIONAL CREWCAB DU										
00221101	077600	.560642.		Equipment >\$4999						
Project: 00223401 F-250 CREWCAB 4 DOOR 4X4 SINGL										
00223401	077600	.560642.		Equipment >\$4999						
Project: 00226201 OXFORD ROAD REALIGNMENT										
00226201	077541	.560680.		Construction & Design		11,896		11,895		1
						11,896		11,895		1
Project: 00226301 RED BUG LAKE RD @ SR 436 INTER										
00226301	077541	.560610.		Land	13,740,890	6,768,964			305,899	6,463,065
00226301	077541	.560680.		Construction & Design	348,612	818,975		575,216	141,690	102,069
					14,089,502	7,587,939		575,216	447,589	6,565,134
Project: 00226401 AIRPORT BLVD EXT. FROM SR 46										
00226401	077515	.560670.		Roads						
00226401	077515	.560680.		Construction & Design						
Project: 00226501 US 17-92 TO FERNWOOD										
00226501	077541	.560670.		Roads	1,038,481	11,701,781		9,419,153	1,244,147	1,038,481
00226501	077541	.560680.		Construction & Design						
					1,038,481	11,701,781		9,419,153	1,244,147	1,038,481

RESOLUTION

THE FOLLOWING RESOLUTION WAS ADOPTED AT THE  
REGULAR MEETING OF THE BOARD OF COUNTY  
COMMISSIONERS OF SEMINOLE COUNTY, FLORIDA, ON  
THE 25th DAY OF SEPTEMBER, 2007.

**WHEREAS**, the State of Florida Department of Transportation and Seminole County desire to facilitate the acquisition of right-of-way for the State Road 436/Red Bug Lake Road Interchange Project from Lake Howell Branch Road to Wilshire Boulevard beginning in Fiscal Year 2007/2008; and


**WHEREAS**, The State of Florida Department of Transportation has requested Seminole County to execute and deliver to the State of Florida Department of Transportation a Locally Funded Agreement and a Memorandum of Agreement for the aforementioned project, (FDOT Financial Management Number 419369-1-{4B, 41, 43 & 45}-01).

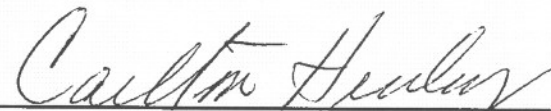
**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Seminole County, Florida, that the Chairman is hereby authorized to make, execute and deliver to the State of Florida Department of Transportation the Locally Funded Agreement and a Memorandum of Agreement for the aforementioned project, (FDOT Financial Management Number 419369-1-{4B, 41, 43 & 45}-01).

ADOPTED THIS 25th DAY OF SEPTEMBER, 2007.

ATTEST:

BOARD OF COUNTY COMMISSIONERS  
SEMINOLE COUNTY

  
MARYANNE MORSE, Clerk to the  
Board of County Commissioners in  
and for Seminole County, Florida.

  
Carlton D. Henley, Chairman